

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NATHAN P. GOLDSTEIN, as he is EXECUTIVE
DIRECTOR, MASSACHUSETTS LABORERS'
BENEFIT FUNDS,

Plaintiff,

v.

BATISTA CONTRACTING LLC and ROCHESTER
BITUMINOUS PRODUCTS, INC.,
Defendants.

C.A. No. 22-cv-10807-PBS

**EX-PARTE MOTION FOR PRELIMINARY INJUNCTION, TEMPORARY
RESTRAINING ORDER, AND PREJUDGMENT ATTACHMENTS**

Pursuant to the Employee Retirement Income Security Act of 1974 § 502(a)(3), 29 U.S.C. § 1132(a)(3), and Federal Rules of Civil Procedure 64 and 65, Plaintiff Nathan P. Goldstein, as he is Executive Director of the Massachusetts Laborers' Benefit Funds ("Plaintiff" or "Funds"), respectfully requests that this Court grant (1) a preliminary injunction compelling the Defendants, Batista Contracting LLC ("Batista") and Rochester Bituminous Products, Inc. ("Bituminous") (collectively, "Defendants" or "Companies"), to permit an audit of their records in order that Plaintiff may determine the amount of benefit contributions owed to the Funds; (2) a temporary restraining order prohibiting the Defendants from conveying or dissipating assets or funds except for documented legitimate business expenses; and (3) order prejudgment attachment of Defendants' bank accounts and assets up to the value of \$1,812,362.20.

As grounds for this motion, Plaintiff states as follows:

1. Plaintiff brought this action under §§ 502 and 515 of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §§ 1132(a)(3), (d)(1), 1145, and § 301 of the Labor Management Relations Act ("LMRA"), 29 U.S.C. § 185, to enforce the Defendants'

1/6/23
The request
for ex parte
relief is DENIED.
The plaintiff shall serve
the motion, and a hearing will be
scheduled.